

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION
(Re: CA H-12-3086)

United States Court
Southern District of Texas
FILED

MAR 19 2013

Michael A. Bradley, Clerk of Court

UNITED STATES,)
Respondent,)
) CRIMINAL NO. H-10-512-1
v.)
) (Amended)
THOR ALEXANDER MORRIS,) Application for Certificate
Petitioner.) of Appealability
)

RELIEF SOUGHT

Thor Alexander Morris, Petitioner, applies to this Honorable Court, under the provisions of Rule 22(b)(1) of the Federal Rules of Appellate Procedure and Section 2553(c) of Title 28 of the United States Code for a Certificate of Appealability of this Court's judgment denying the Petitioner for relief under 28 U.S.C. §2255.

GROUND FOR RELIEF

The grounds for this application are:

1. This Court entered a final, appealable judgment in this matter on 01/17/2013 that denied Petitioner relief on his Petition for relief under 28 U.S.C. §2255.

2. Petitioner desires to appeal this judgment, as is authorized by Section 2253(a) of Title 28 of the United States Code. However, Section 2253(a) and Appellate Rule 22(b)(1) require a Certificate of Appealability as a precondition of proceeding with the appeal.

3. Under Rule 11(a) of the Rules Governing Section 2255 Proceedings, this Court should have considered the propriety of a Certificate of Appealability at the time it denied Petitioner relief in this matter.

4. A timely notice of appeal was filed in this matter on 02/08/2013.

5. For reasons more fully explained in the attached Memorandum in Support, a Certificate of Appealability should issue on the following issues:

- a. Petitioner was denied effective assistance of counsel when counsel failed to object to the government's breach of plea agreement at sentencing.
- b. Petitioner was denied effective assistance of counsel when counsel failed to object to a sentencing enhancement under USSG §3B1.1(c).
- c. Petitioner was denied effective assistance of counsel when counsel failed to object to a sentencing reduction under USSG §2X1.1(b)(1) not being imposed.

6. A Certificate of Appealability is proper on these issues because, as is argued in the supporting memorandum, Petitioner has made a substantial showing of the denial of a constitutional right on these issues within the meaning of 28 U.S.C. §2253(c)(2).

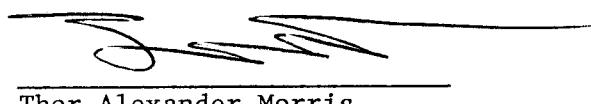
SUPPORTING PAPERS

This motion is based on this document, on that Notice of Appeal filed on 02/08/2013, on the attached memorandum in support, on all pleadings and papers on file in this action, and on whatever argument and evidence the court may permit at any hearing on this motion.

WHEREFORE, Petitioner prays that this Honorable Court grant him a Certificate of Appealability on the above listed issues.

Petitioner hereby declares under penalty of perjury that the foregoing is true and correct to the best of his knowledge.

Respectfully Submitted,
This 9th day of March, 2013.



Thor Alexander Morris